IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SAO NO.5 of 1994

DATE OF DECISION: October 28, 2006

Sumer Chand

….Appellant.

VERSUS

Mewa Ram and others

…..Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

PRESENT: Shri Jatin Sehrawat, Advocate for
Shri Rajesh Garg, Advocate for the appellant.

Viney Mittal,J.(Oral).

The present appeal has been filed by defendant Sumer Chand. He has challenged the order dated January 13, 1994 passed by the learned Additional District Judge, Kurukshetra whereby on a joint request made by the learned counsel for the parties, the judgment and decree dated June 1, 1990 passed by the trial Court have been set aside and the case has been remanded back to the trial Court for fresh decision after permitting parties to lead more evidence, if required.

The facts which emerge from the record show that a suit for redemption was filed by the plaintiffs against defendant Sumer Chand. The said suit was dismissed by the trial Court vide its judgment and decree dated June 1, 1990. The plaintiffs took up the matter in appeal before the First Appellate Court. During the course of proceedings in the first appeal on January 13, 1994, the learned

counsel for the parties made a joint request for setting aside the judgment and decree of the trial Court and requested for remand of the case to the trial Court for fresh decision after permitting the parties to lead more evidence, if required.

The aforesaid request jointly made by the learned counsel for the parties was accepted by the First Appellate Court. Consequently, the judgment and decree of the trial Court was set aside and the matter was remanded back to the trial Court for fresh decision permitting the parties to lead more evidence, if so required. An application filed by the defendants for framing further additional issues and for permission to lead further evidence was also sent back to the trial Court for appropriate decision, in accordance with law.

After hearing the learned counsel for the appellant and taking into consideration the order dated January 13, 1994 passed by the learned Additional District Judge and also keeping in view the fact that the aforesaid order had been passed on the joint request made by the learned counsel for the parties, I do not find any merit in the present appeal. The challenge made by the appellant to the aforesaid order is wholly mis-conceived and cannot be sustained.

Consequently, I do not find any merit in the appeal and the same is dismissed.

October 28, 2006 (Viney Mittal)
KD Judge